IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

Criminal Application No.2757 of 2006 in Criminal Appeal No.531 of 2005

Office Notes, Office Memoranda of Coram, : Appearances, Court's orders or directions : Court's or Judge's orders and Registrar's orders.

Mr. Sanjay Patrikar, Advocate for the applicant/appellant,

Mr. J.B. Jaiswal, APP for the respondent/State.

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CORAM : K. J. ROHEE, J
DATED : AUGUST 23, 2006

1. Heard the learned counsel for the applicant/appellant and the learned APP for the respondent/State.

2. According to the prosecution on 30.11.1994 at about 2.00 p.m. the applicant/appellant committed rape on the prosecutrix by taking her to the cattle shed. The said incident was seen by a woman who was grazing she-goats. She was examined before the court, however, she turned hostile. Soon after the incident the prosecutrix disclosed the incident to as many as six persons including Vimal Bhajikhaye. However none of them has been examined. Thereafter the incident was disclosed by the prosecutrix to her sister-in-law Chitra and younger

sister Chandrakala. They are also not examined. PW 4 Sitabai (the mother of the prosecutrix) was called from the field and the prosecutrix narrated the incident to her. Thereafter PW 4 Sitabai and PW 3 Waman Narnaware (the maternal uncle of the prosecutrix) took her to the Police Station and lodged report (Exh.63) in the night. On the next day the prosecutrix was examined by the Medical Officer. However, the Medical Officer was not examined before the Court. The saree, petticoat and jangya of the prosecutrix were seized. The C.A. report (Exh. 106) shows that there were blood stains on all these clothes and in addition there were stains of semen on petticoat.

3. It was urged by the learned counsel for the appellant that the persons to whom the prosecutrix disclosed the incident immediately after the alleged incident are not examined. In the absence of examination of Medical Officer there is no corroboration by medical evidence to the testimony of the prosecutrix and hence the appellants could not have been convicted.

4. It is true that all these persons should have been examined, however, they have not been examined by the prosecution for the reasons best known to it. But it should not be overlooked that the testimony of the prosecutrix is fully corroborated by

her mother Sitabai (PW 4) and maternal uncle Waman Narnaware (PW 3). There is prompt lodging of report to the Police Station and there was little chance of false implication. Thus there appears sufficient evidence in support of the conviction of the appellant. The application for bail is, therefore, rejected.

JUDGE

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